IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 808 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATKUMAR JENTILAL PARIKH

Versus

STATE OF GUJARAT

Appearance:

MR UM SHASTRI for Petitioner No. 1

Mr.K.P. Raval, ASSTT GOVERNMENT PLEADER for Respondent No. 1

RULE SERVED for Respondents No. 2-3

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 19/10/2001

ORAL JUDGEMENT

On 21.9.2001 this Court passed the following order :

"Rule. To be heard with Special Civil Applications No.9693/ 2000, 9694/ 2000, 12040/ 2000 and 12646/ 2000 on 19th October 2001."

An Office Note is placed stating that Special Civil Application No. 12646 of 2000 is pending and fixed for 17.10.2001 on Admission Board before the Honourable Court

(Coram : K.R. Vyas, J.) while other matters are disposed of.

Earlier on 24.8.2001 this Court passed the following order :

"Learned advocate for the petitioner is not present when the matter is called out. S.O. to 14.9.2001."

Today also, when the matter is called out learned advocate for the petitioner is not present. The present petition is filed for the reliefs that the respondents be directed to issue certificate to the petitioner to practise under the provisions of Ayurvedic and Unani System of Medicines Act, 1951 and permit petitioner to also practise Allopathic drugs for administration to the patients.

2. The case of the petitioner is that the petitioner after completing Higher Secondary Education had joined the College at Bihar State and subsequently got a degree certificate under the Ayurvedic and Unani System of Medicines Act, 1951 and thereafter the petitioner had applied for registration before the said Board who had issued certificate to the petitioner and the petitioner is permitted to practise as Ayurvedic 'Vaid'. A copy of said certificate is produced at Annexure 'A' to the petition.

3. Further the case of the petitioner is that the State council of Ayurved and Unani System of Medicines, Bihar State at Patna had also issued identity card to the petitioner on 1.11.1999, which is produced at Annexure 'B' to the petition. It is further stated by the petitioner in para 4 that as the petitioner belong to the State of Gujarat and staying in Godhra city of Panchmahals District, the petitioner has decided to practice as Ayurved 'Vaid' at Godhra. Therefore, necessary registration is required and accordingly the petitioner applied for registration as Ayurved 'Vaid' to the office of respondent no.2 and requested to permit him to use Allopathic drugs for administration to the patients. The petitioner bases his claim that in all other states degree from one State is honoured in other state when any citizen wants to practise in that state. Accordingly the petitioner had applied for registration as well as requested for permission to use Allopathic drugs for administration to the patients. Respondent no.2, i.e. Registrar, Board or Ayurvedic and Unani System of Medicines, Ahmedabad has refused to grant the

same.

4. Affidavit in reply is filed by Shri D.R. Munshi, Under Secretary, Health & Family Welfare Department, Gujarat State. It is stated in para 5 thereof that the petitioner does not possess the recognised qualification as per schedule given under the Indian Medicine Central Council Act, 1970. It is submitted that by a letter dated 1.3.1999 the Central Council of Indian Medicine, Delhi has categorically stated that there is no provision for enlistment of hereditary practitioners and transfer of registration from one state to another under the said Central Act. A copy of said letter is filed at Annexure 'I' to the said reply. The deponent further proceeds to state that the Gujarat Board of Ayurvedic and Unani System of Medicine, Ahmedabad issues application forms and grants registration to those who hold recognised qualification under the Indian Medicine Central Council Act, 1970. The deponent further states that the petitioner does not possess any recognised qualification. The deponent submits that the petitioner has not submitted any degree certificate but according to his identity card, he possesses "Vaidya Visharad" and "Ayurved Ratna" which is not recognised for any purpose and for any period in the Indian Medicine Central Council Act, 1970. It is also stated that, "The petitioner does not hold a recognised degree to practise or a necessary licence to keep the Allopathy drugs."

5. In view of the contents of the affidavit in reply to which no rejoinder is filed, there is no substance in the petition. The Special Civil Application is dismissed. Rule is discharged with no order as to costs.

(Ravi R. Tripathi, J.)
karim